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HOLLAND & KNIGHT LLP
131 S. DEARBORN STREET
30TH FLOOR
CHICAGO, IL 60603

EXAMINER	
O STEEN, DAVID R	
ART UNIT	**PAPER NUMBER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/059,547	KAMEN, YAKOV	
	Examiner	Art Unit	
	David R. O'Steen	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *1-28-2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 13, and 25 have been considered but are moot in view of the new ground(s) of rejection. In addition to the amendments made to Claims 1, 13, and 25, the applicant also traverses a number of the examiner's rejections.

With regard to Claim 25, the applicant states on page 3 of the "Remarks" that Lemmons does not disclose memory queues for active and inactive data elements and that data elements could be intermixed. The examiner respectfully disagrees. In column 7 and also figure 3 and column 8 (among other places), Lemmons discloses that the necessary memory and data elements. While Lemmons does not use the word "queues," it is clear in the disclosure that Lemmons makes a distinctions between data elements shown ("a first queue to store active elements") and a data elements not shown ("a second queue for inactive elements") as is necessary to make sure the appropriate data elements are shown to the user.

On pages 3 and 4 of the "Remarks," the applicant cites various portions of Lemmons used by the examiner to reject Claims 2, 14, 26, 4, 16, 27, 28, 10, 22, 29, 12, and 24. He finishes by stating that these are deficient because Lemmons is only two-dimensional. This objection has been remedied by the application of new grounds of rejection.

With regards to Claims 30 and 31, the applicant traverses the examiner's rejections because the applicant maintains that Lemmons fails to teach two separate queues for data elements. This argument is similar to the applicant's traversal of Claim 25 and so, has already, been addressed by the examiner.

With regards to Claim 3 and 15, the applicant maintains, on pages 5 and 6 or the "Remarks" that neither Lemmons nor Morrison disclose where "two or more block instances are mapped with the same information attributes." If combined, the applicant states that "the information attribute would merely extend across the two or more block instances." The examiner respectfully disagrees. Morrison clearly shows, in figure 5, that "two or more block instances are mapped with the same information attributes" and not "merely extend across the two or more block instances."

With regards to Claim 5 and 17, the applicant maintains, on pages 6 and 7 or the "Remarks" that neither Wehmeyer nor Lemmons disclose that when the number of available information attributes is less than the number of block instances, the number of displayed mapped block instances is less than the number of available block instances. The examiner respectfully disagrees. Figure 7 of Wehmeyer clearly shows empty space around the "Call Mom" reminder where there is nor information attributes.

With regard to Claims 6-7 and 18-19, the applicant on page 7 of the "Remarks," argues that neither Lemmons '011 nor Lemmons '768 fails to disclose that each displayed mapped block instance is manipulated independently of the other displayed mapped block instances. The examiner disagrees. Figure 7 of Lemmons '011 shows

shows block instances such as "Seinfeld" and "60 Minutes" mapped independently of each other and that a structure attribute such as color is also manipulated.

With regard to Claims 8-9 and 20-21, the applicant on page 8 states that neither Lemmons nor Ellis teach the limitations of these claims. The applicant also disputes the reasons for combining saying that the reason is derived from hindsight. The examiner disagrees. Improving the user experience is a legitimate motivation for one skilled in the art to have at the time of the invention. It is not hindsight. Customization improves the user's experience. Specifically, the text modification suggested in Ellis removes objectionable material from the display of program attributes which makes the viewer's experience more pleasurable.

The applicant also traverses the rejections of Claims 11 and 23 noting that Lemmons is not three dimensional. This traversal is taken care of by application of new grounds for rejection, motivated by amendment.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claims 13-24 are drawn to functional descriptive material recorded on a machine readable-medium. The specification (at page 10, paragraph 31) indicates - "*The instructions **may be loaded** into memory from a storage device or from one or more*

digital processing systems (e.g. a server computer system) ***over a network connection"*** The specification (at page 11, paragraph 32) indicates – "...***nor to any particular source for the instructions executed by the computer or digital processing system***"

Therefore, the specification suggests that the claimed computer readable medium is directed to "signals" or "carrier waves".

A "signal" is neither a process ("actions"), machine, manufacture nor composition of matter (i.e., a tangible "thing") and therefore does not fall within one of the four statutory categories of § 101. Rather, "signal" is a form of energy, in the absence of any physical structure or tangible material.

Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory. The examiner should suggest amending the claim to *include* the disclosed tangible computer readable media, while at the same time *excluding* the intangible media such as signals, carrier waves, etc defined in the specification.

Unfortunately, the amendment "system concluding" does not exclude intangible media such as signals and carrier waves. The examiner recommends using the term "computer readable storage medium."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 4, 10, 12-14, 16, 22, and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (US 5,880,768) in view of Finseth (US 6,754,906).

As regards Claims 1 and 13, Lemmons discloses a method and computer readable medium comprising: determining a number of block instances available to a viewer in an interactive programming guide (IPG) (determining the number of block instances is inherent in any method of displaying an IPG because the IPG must know how many blocks can be displayed on the screen before they are displayed to the user. In this case Lemmons determines the number of block instances available by limiting the block instances to a maximum 3 30 minute time columns and 5 channel rows, fig. 3 and col.8, lines 43-64); determining a number of available information attribute sets to be presented to the viewer (such as determining which subset of program schedule information should be displayed to the user at any given time, col. 8, lines 58-61); mapping the available information attribute sets to the number of available block instances to generate mapped block instances (so as presenting the program information from the memory within cells of the program grid, fig. 3, cols. 8 and 9, lines 63-67 and 1-6); and displaying the mapped block instances contiguously (such as on a grid where each of the program tile borders are in direct contact with the borders of the adjacent blocks, fig. 3). Lemmons, however fails to disclose that the IPG is three

dimensional. Finseth discloses that the IPG is three-dimensional (fig. 8A and col. 16, lines 31-55).

At the time of the invention, it would have been obvious to one skilled in the art to combine the extra dimension or Finseth, an analogous art, to the IPG system of Lemmons to provide extra organizational information to the user.

As regards Claim 25, Lemmons discloses a system comprising: a processor (control unit, which preferably microprocessor based, col. 7, lines 17-20 fig. 2.74); a memory coupled to with the processor (fig. 2.76 and col. 7, lines 20-30), the memory operable to include a first queue to store active data elements (the portion of the program information selected for viewing by the user) and a second queue to store inactive data (the portion of the program information not presented as part of the program guide) (col. 7, lines 49-62), wherein the active data elements are displayed in visible block instances in an interactive programming guide (IPG), and wherein the visible blocks are displayed contiguously (such as on a grid where each of the program tile borders are in direct contact with the borders of the adjacent blocks, fig. 3). Lemmons, however, fails to disclose that the IPG is three-dimensional. Finseth discloses that the IPG is three-dimensional (fig. 8A and col. 16, lines 31-55).
At the time of the invention, it would have been obvious to one skilled in the art to combine the extra dimension or Finseth, an analogous art, to the IPG system of Lemmons to provide extra organizational information to the user.

As regards Claims 2, 14, and 26, Lemmons discloses that each of the mapped block instances is associated with one or more structure attributes (such as its color or

absence thereof, whether it is highlighted or not, block size, see fig. 4 and col. 10, lines 5-34).

As regards Claims 4 and 16, Lemmons discloses that when the number of available information is less than the number of block instances, one or more block instances is not visible to the viewer (the portion not shown to the user, col. 7, lines 49-51).

As regards Claim 27, Lemmons discloses that each data element is associated with one or more information attributes (such as containing program title, rating, them, length, etc for a program, col. 8, lines 64-67, stored in memory fig. 2.76 and col. 7, lines 28-30).

As regards Claim 28, Lemmons discloses that the visible block instances are displayed contiguously (fig. 3).

As regards Claims 10, 22, and 29, Lemmons discloses that the mapped block instances are displayed contiguously on a surface (fig. 3).

As regards Claims 12 and 24, Lemmons discloses that the surface is associated with one or more surface attributes (such as that the surface is opaque, full-screen, divided into a 3 by 6 grid, etc., see fig. 4).

As regards Claim 30, Lemmons discloses that an inactive data element is displayed in a visible block instance by moving the inactive data element from the inactive queue to the active queue (as the user selects navigates the EPG, new program data is retrieved and old program data is returned to memory, col. 7, lines 48-65).

As regards Claim 31, Lemmons discloses that an inactive data element is displayed in the visible block instance by swapping the inactive data element with an active data element being displayed in the visible block instance (col. 7, lines 48-65 and col. 10, lines 35-43).

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (US 5,880,768) in view of Morrison (US 5,900,915).

As regards Claims 3 and 15, Lemmons discloses the method and computer readable medium of Claims 2 and 13, but fails to disclose whether the number of available information attributes is less than the block instances, two or more block instances are mapped with the same information attributes. Morrision discloses whether the number of available information attributes is less than the block instances, two or more block instances are mapped with the same information attributes (such as when two or more block instances carry the same text title because the available information, in this case titles, is less than the number of program blocks, see "Terminator 2: Judgement Day," fig. 5).

At the time of invention, it would have been obvious to one skilled in the art to combine the attribute mapping of Morrision, an analogous art, to the EPG of Lemmons to provide a helpful EPG to the user even when there more block instances information attributes.

Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (US 5,880,768) in view of Finseth (US 6,754,906) and in further view of Wehmeyer (US 6,169,543).

As regards Claims 5 and 17, Lemmons and Finseth disclose the method and computer readable medium of Claims 2 and 13 but fail to disclose that when the number of available information attributes is less than the number of block instances, the number of displayed mapped block instances is less than the number of available block instances. Wehmeyer discloses that when the number of available information attributes is less than the number of block instances, the number of displayed mapped block instances is less than the number of available block instances (that is, when there is no information attribute for a certain place on the EPG grid, there is no block at all, see "Reminder" row, 5pm, 6pm, or 6:30pm column, fig. 7).

At the time of invention, it would have been obvious to one skilled in the art to combine the attribute mapping of Wehmeyer, an analogous art, to the EPG of Lemmons and Finseth to provide the user with an EPG that was uncluttered and easy to use.

Claims 6-7 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (US 5,880,768) in view of Finseth (US 6,754,906) and in further view of Lemmons (US 6,481,011).

As regards Claims 6 and 18, Lemmons '768 and Finseth disclose the method and computer readable medium of Claims 1 and 13 but fail to disclose wherein each displayed mapped block instance is manipulated independently of the other displayed

mapped block instance. Lemmons '011 discloses that each displayed mapped block instance is manipulated independently of the other displayed mapped block instance (such as changing the color of a program block, col. 5, lines 31-51 and fig. 7).

At the time of invention, it would have been obvious to one skilled in the art to combine the block instance manipulation of Lemmons '011, an analogous art, to the EPG of Lemmons '768 and Finseth to allow greater customization and ease of use to the viewer.

As regards Claims 7 and 19, Lemmons further discloses that each displayed mapped block instance is manipulated by modifying the associated one or more structure attributes (such as color, figs. 5 and 7, col. 7, lines 38-53).

Claims 8-9 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (US 5,880,768) in view of Finseth (US 6,754,906) and in further view of Lemmons (US 6,481,011) and in further view of Ellis (US 6,732,367).

As regards Claims 8 and 20, Lemmons '768, Finseth, and Lemmons '011 disclose the method and computer readable medium of Claims 6 and 18 but fail to disclose that each displayed mapped block instance is manipulated by modifying the associated one or more information attributes. Ellis discloses that each displayed mapped block instance is manipulated by modifying the associated one or more information attributes (such as by altering the text of certain program blocks, figs. 8-11, and col. 9, lines 3-46).

At the time of invention, it would have been obvious to one skilled in the art to combine the text altering of Ellis, an analogous art, to the EPG of Lemmons '768, Finseth, and Lemmons '011 to allow greater customization for the viewer.

As regards Claims 9 and 21, Lemmons '011 discloses that each displayed mapped block instance is manipulated by modifying the associated one or more structure attributes (such as color, figs. 5 and 7, col. 7, lines 38-53) and Ellis discloses that each displayed mapped block instance is manipulated by modifying the associated one or more information attributes (such as by altering the text of certain program blocks, figs. 8-11, and col. 9, lines 3-46).

Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (US 5,880,768) in view of Finseth (US 6,754,906) in view of Arsenault (US 6,925,650).

As regards Claims 11 and 23, Lemmons and Finseth disclose the method and computer readable medium of Claims 10 and 22 but fail to disclose that the surface is a bar. Arsenault discloses that the surface is a bar (fig. 5).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the bar layout of Arsenault, an analogous art, with the EPG of Lemmons and Finseth to provide the user with EPG data without using the entire screen.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. O'Steen whose telephone number is 571-272-7931. The examiner can normally be reached on 8:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DRO

ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER